



CITY OF HAYWARD AGENDA REPORT

AGENDA DATE October 6, 1998

AGENDA ITEM 6

WORK SESSION ITEM

TO: Mayor and Members of City Council
Redevelopment Agency Board Members

FROM: Director of Community and Economic Development

SUBJECT: Adoption of Amended **Owner** Participation and Business Preference Rules
by the Redevelopment Agency, and the Election by the City to Receive
Passthrough of Tax Increment Revenue

Recommendation:

Staff recommends that the Redevelopment Agency adopt amended Rules for Owner Participation and Business Preferences.

Staff recommends that the City Council elect to receive passthrough tax increment revenue payments from the Amended Hayward Downtown Redevelopment Project based on **the** proposed expansion.

Background and Discussion:

Owner Participation Rules

Staff is recommending that the Rules for Owner Participation and Business Preference be amended in order to conform to changes in redevelopment practice. The proposed Amended Redevelopment Plan and Owner Participation Rules provide the opportunity for property owners and businesses within the Redevelopment Project Area to work with the Redevelopment Agency to develop or redevelop their property. In these projects the owner "Participates" with the Agency, subject to an Owner Participation Agreement (OPA).

An owner may approach the Redevelopment Agency regarding a proposed redevelopment effort on his/her property, or the Agency may directly approach a property owner regarding a property that does not conform to the goals and standards of the Redevelopment Plan. However, a more common current practice is for the Agency to identify a site and project for redevelopment and issue a Request for Proposals (**RFP**) to the property owners and businesses on site, as well as to qualified developers who may be interested in the project. The proposed amended Owner Participation Rules describe this newer process and specify the contents of the RPP, including standards for selection of the developer. If the Agency selects a **property** owner or business to work with, the Agency will enter into negotiations with the property owner for an OPA. An OPA **specifies** the allowed uses, certain development standards, timing of the redevelopment and assistance, if any, provided by the Agency. The Owner Participation Rules state that the Agency will agree not to acquire the subject site if the owner fully performs under the OPA.

If a property owner or business is not selected, and is subsequently displaced from the development site, the Owner Participation **Rules** state that the Agency shall use its best efforts to offer the owner or business a reasonable opportunity to relocate within the Redevelopment Project Area.

The Hayward Redevelopment Area Committee (**HRAC**) reviewed and commented on the Owner Participation Rules and the recommended approval of the Rules with the inclusion of a definition for the term "in conformance with the Redevelopment Plan." The Committee's comments have been incorporated into the proposed Owner Participation Rules.

City Passthrough Payments:

The second action is for the City Council to consider electing to receive its passthrough payments of tax increment revenue over the life of the Amended Downtown Hayward Redevelopment Plan. Currently, the Existing Redevelopment Area does not provide any **passthrough** payments to the City. Recent changes to redevelopment law have created a passthrough formula for payments to taxing entities within redevelopment project areas. In accordance with this formula, the City is expected to receive an average of \$12,700 per year for the **first** five years of the Amended Redevelopment Plan starting in FY **1999-2000**. The Existing Area will not provide passthrough payments until fiscal year **2004-2005**. At that time, it is projected that the City will receive an average of about \$50,500 per year. Over the life of the Amended Project Area, it is estimated that the **City** will receive approximately \$2.1 million from both the Existing and Added areas.

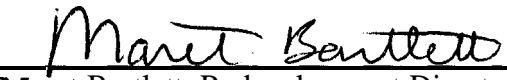
Staff recommends that the City Council consider adopting the attached resolution, which will:

1. Serve as the City's election to receive passthrough payments from the Amended Redevelopment Plan, and
2. Agree to transfer the passthrough payments until **2004-2005** back to the Agency.

By agreeing to forgo the **first** five years of passthrough payments, the City will provide additional revenues to the Agency that can be used to fund projects in the early years of the Amended Redevelopment Plan.

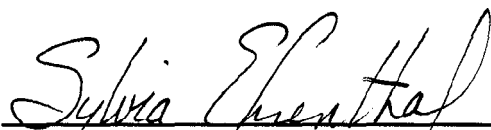
Mayor and Members of City Council
Redevelopment Agency Board Members
October 6, 1998

Prepared by:



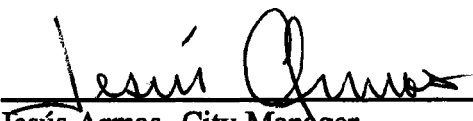
Maret Bartlett, Redevelopment Director

Recommended by:



Sylvia Ehrenthal, Director of Community & Economic Development

Approved by:



Jesús Armas, City Manager

Attachments:

- A. Amended Owner Participation Rules
- B. Resolutions

**RULES GOVERNING PARTICIPATION BY PROPERTY
OWNERS AND THE EXTENSION OF REASONABLE
PREFERENCES TO BUSINESS OCCUPANTS IN THE
DOWNTOWN HAYWARD REDEVELOPMENT
PROJECT**

Prepared by the

Redevelopment Agency of the City of Hayward

Adopted: _____ 1998

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RULES GOVERNING PARTICIPATION BY PROPERTY OWNERS AND THE EXTENSION OF REASONABLE PREFERENCES TO BUSINESS OCCUPANTS IN THE DOWNTOWN HAYWARD REDEVELOPMENT PROJECT

I. [100] PURPOSE AND INTENT

These rules are adopted pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) in order to implement the provisions of the Redevelopment Plan for the Downtown Hayward Redevelopment Project (“Redevelopment Plan”) regarding participation by property owners and the extension of reasonable preferences to business occupants within the Project. These rules set forth the procedures governing such participation and preferences.

It is the intention of the Agency to encourage and permit participation in the redevelopment of the Project Area by property owners and to extend reasonable preferences to business occupants of real property within the boundaries of the Project Area to the maximum extent consistent with the objectives of the Redevelopment Plan.

II. [200] DEFINITIONS

As used herein, the following definitions apply:

- (1) “Agency” means the Redevelopment Agency of the City of Hayward **California**.
- (2) “Business Occupant” means any person, persons, corporation, association, partnership, or other entity engaged in business within the Project Area on or after ~~the~~ date of adoption of the Redevelopment Plan by the City Council.
- (3) “City Council” **means** the City Council of the City of Hayward California.
- (4) “Conforming Owner!” means any property owner whose use of their property within the Project Area has been approved by the Redevelopment Agency to be in conformance with the Redevelopment Plan.
- (5) “Conformance with the Redevelopment Plan” means conformance with the requirements, goals and objectives of the Redevelopment Plan, as implemented by the policies of the Redevelopment Agency.
- (6) “Owner” means any person, persons, corporation, association, partnership, or other entity holding, title of record to real property in the Project Area on or

after the date of adoption of the Redevelopment Plan by the City Council.

- (7) “Owner Participation Agreement” means an agreement entered into by an Owner with the Agency in accordance with the provisions of the Redevelopment Plan and these rules.
- (8) “Project Area” means the area described in the “Legal Description of the Project Area Boundaries” (Attachment No. 1 of the Redevelopment Plan) and shown on the “Project Area Map” (Attachment No.2 of the Redevelopment Plan).
- (9) “Redevelopment Plan” means the Redevelopment Plan for the Downtown Hayward Redevelopment Project adopted by the City Council by Ordinance . No.75029 C.S. on December 30, 1975, as subsequently amended from time to time.

III.. [300] ELIGIBILITY

Owners shall be eligible to participate in the redevelopment of property within the Project Area in accordance with the provisions of the Redevelopment Plan, these rules, and the limitations herein described.

Participation opportunities are necessarily subject to and limited by factors such as the following:

- (1) The appropriateness of land uses proposed and consistency with the General Plan of the City of Hayward and the Redevelopment Plan;
- (2) The construction, widening, or realignment of streets;
- (3) The ability of participants to finance acquisition and development in accordance with the Redevelopment Plan and development criteria adopted by the Agency in implementation of the Redevelopment Plan;
- (4) The desirability of land assemblage in the Project in order to create efficient and marketable commercial and industrial parcels; and
- (5) The construction or expansion of public facilities.

IV. [400] TYPES OF PARTICIPATION

Subject to these rules and the limitations in Section 300 and this Section 400, Owners shall be given a reasonable opportunity to participate in redevelopment by:

- (1) Retaining all or a portion of their properties and developing or improving such property for use in accordance with the Redevelopment Plan;
- (2) Acquiring adjacent or other properties within the Project Area and developing or improving such property for use in accordance with the Redevelopment Plan; or
- (3) Selling their properties to the Agency and purchasing other properties in the Project Area.

The foregoing ~~methods of~~ providing owner participation opportunities shall not be deemed exclusive,

V. [500] PARTICIPATION PROCESS

When soliciting requests for proposals ("**RFPs**") for the redevelopment of property within the Project Area (the Redevelopment Project"), the Agency shall 'send an RFP to Owners and Business Occupants on properties which might be subject to acquisition by the Agency due to the implementation of the Redevelopment Project. **RFPs** shall include:

- (1) An identification of ~~the~~ area of the proposed Redevelopment Project implementation;
- (2) A general description of the use and development desired by the Agency, including any applicable use or design standards or restrictions;
- (3) A description of the minimum contents of a proposal and the date by which such proposals must be submitted; and
- (4) A general description of the standards and criteria that the Agency will use in selecting a developer, which criteria may include, but are not limited to:
 - (a) A demonstration of the proposer's financial capability to expeditiously undertake and complete development;
 - (b) A demonstration of the proposer's development experience in projects of

a similar nature; and

- (c) The extent to which the proposed project will create employment opportunities, generate new or increased sales or property taxes, or otherwise achieve the goals and objectives of the Redevelopment Plan.

The Agency shall consider in good faith any proposals submitted by Owners or Business Occupants. In evaluating such proposals, **the** Agency shall extend any available forms of development assistance, which may be appropriate under the **circumstances**.

If an Owner or Business Occupant is selected by the Agency, the Agency may require the selected Owner or Business Occupant to enter into an Owner Participation Agreement with the Agency as set forth below.

If an Owner or Business Occupant is not selected and the Owner or Business Occupant is subsequently displaced, the Agency shall use its best efforts to offer the Owner or Business Occupant a reasonable opportunity to relocate or reenter into business at another location within the Project Area.

VI. [600] CONFORMING OWNERS

The Agency may, in its sole and absolute discretion, determine that certain real property within the Project Area presently meets the requirements of the Redevelopment Plan, and the Owners of such property will be permitted to remain as conforming Owners without an Owner Participation Agreement with the Agency, provided such Owners continue to operate,, use, and maintain the real property within the requirements of the Redevelopment Plan.

In the event that any of the conforming Owners desire to (1) construct any additional improvements or substantially alter **or** modify existing **structures** on any of the real property described above as conforming, or (2) acquire additional property within the Project Area, then, in such event, such conforming Owners may be required by the Agency to enter into an Owner Participation Agreement with the Agency.

VII. [700] OWNER PARTICIPATION AGREEMENTS

Owners wishing to participate in redevelopment within the Project Area may be required, as a condition to participation, to enter into an Owner Participation Agreement with the Agency to ensure the property will be developed and used in accordance with the policies and objectives of the Redevelopment Plan. The Agreement may also require the participant to

join. in the recordation of such documents as the Agency may require.

VIII. [800] CONTENTS OF OWNER PARTICIPATION AGREEMENTS

An Owner Participation Agreement shall obligate the Owner, his or her heirs, successors and assigns, and tenants to devote the property to the uses specified therein, to abide by all provisions and conditions of the Redevelopment Plan for the period of time that the Redevelopment Plan is in force and effect, and to comply with all the provisions of the Owner Participation Agreement according to their terms, duration, and effect.

An Owner Participation Agreement may provide that if the Owner does not comply with the terms of the Agreement, the Agency, in addition to other remedies, may acquire such property or any interest therein by any lawful means, including eminent domain, for its fair market value as of the date of the Owner Participation Agreement, and the Agency may thereafter dispose of **the property** or interest so acquired in accordance with the Redevelopment Plan.

An Owner Participation Agreement shall contain such other terms and conditions which, in the discretion of the Agency, may be necessary to effectuate the purposes of the Redevelopment Plan.

IX. [900] LIMITATIONS ON ACQUISITION OF PROPERTY BY THE AGENCY.

The Agency shall not acquire real property if the Owner fully performs under the Owner Participation Agreement.

The Agency shall not acquire real property without the Owner's consent if the Agency has indicated that an existing building is to be continued on its present site under the Redevelopment Plan and in its present form and use, unless:

- (1) Such building requires structural alteration, improvement, modernization, or rehabilitation;
- (2) The site or lot on which the building is situated requires modification in size, shape, or use; or
- (3) It is necessary in carrying out the goals and objectives of the Redevelopment Plan to impose upon such property development requirements and any other controls, limitations, restrictions, and requirements contained or authorized in the Redevelopment Plan, and the Owner fails or refuses to participate in

the Redevelopment Plan, and ~~the~~ Owner fails or refuses to participate in redevelopment by executing an Owner Participation Agreement in accordance with the goals, objectives and provisions of the Redevelopment Plan.

X. [1000] PREFERENCE TO BUSINESS OCCUPANTS WITHIN THE PROJECT AREA

Business Occupants who desire to remain within the Project Area shall be extended a reasonable preference to remain or reenter in business within the Project Area if they otherwise meet the requirements prescribed in these rules and the Redevelopment Plan, provided said Business Occupants are able to demonstrate the fiicial ability to remain or reenter in business within the Project Area.

XI. [1 100] AMENDMENT OF RULES

These rules may be modified or amended from time to time by the Agency at any regular or duly called special meeting, provided, however, that no such amendment shall retroactively impair the rights of Owners who have executed Owner Participation Agreements with the Agency in reliance upon these rules as presently constituted.

DRAFT *On 10-1-98*

HAYWARD CITY COUNCIL

RESOLUTION NO. 98-_____

Introduced by Council Member _____

RESOLUTION ELECTING TO RECEIVE ALL OR ANY
PORTION OF TAX INCREMENT REVENUES PURSUANT
TO THE COMMUNITY REDEVELOPMENT LAW

WHEREAS, the City Council adopted a Redevelopment Plan for the Downtown Hayward Redevelopment Project on December 30, 1975, and added the territory known as Project Expansion Area No. 1 on April 21, 1987, (jointly known as the "Existing Project"); and

WHEREAS, the City Council is considering an amendment to the Redevelopment **Plan** for the Downtown Hayward Redevelopment Project ("the Plan Amendment") which would provide for a number of changes, including, but not limited to, the addition of approximately 370 acres to the Existing Project, and the financing of the expanded Project costs through the receipt of tax increment revenue; and

WHEREAS, Health and Safety Code section 33670 contains standards for the allocation of taxes among any affected taxing agencies and the City of Hayward is an affected taxing agency; and

WHEREAS, prior to the adoption of any Redevelopment Project or Project addition which takes place after January 1, 1977, Health and Safety Code section 33676 authorizes the election by any affected taxing agency to receive, in addition to the portion of the taxes allocated to such agency pursuant to Health and Safety Code section 33670(b), all or any portion of the tax increment revenues otherwise allocable to the Redevelopment Agency from the added Project Area after the tax year in which an ordinance adopting the Plan Amendment becomes effective ("the Increases"), and the City Council wishes the City of Hayward to receive all such Increases; provided, however, that such funds shall be returned to the Redevelopment **Agency** through June 30, 2004, which is the close of fiscal year 2003-2004.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward as follows:

1. That it hereby elects to receive all Increases, as herein defined, resulting from property taxes levied on **property** within the addition to the Project Area described in the Plan Amendment.

2. That it also declares that all such Increases received by the City shall be deemed transferred to the Redevelopment Agency until June 30, 2004, the close of fiscal year 2003 -2004.

3. The City Clerk is hereby directed and authorized to transmit a copy of this resolution to the Executive Director of the Redevelopment Agency for the City of Hayward and to the tax collector of Alameda County.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 1998

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

W:\RESOS\REDEVEL\INCREMNT.WPD

pm 9-30-98

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA-___

Introduced by Agency Member

RESOLUTION ADOPTING AMENDED OWNER PARTICIPATION
AND BUSINESS PREFERENCES RULES

WHEREAS, the City Council, as the Redevelopment Agency of the City of Hayward ("Redevelopment Agency"), believes that it is appropriate to revise the *Rules for Business Tenant Preferences and Rules for Owner Participation* for the Downtown Hayward Redevelopment Project previously approved and adopted by Resolution No. RA-75-08 pursuant to the standards for owner participation rules contained in the California Community Redevelopment Law, codified as Health and Safety Code section 33000 et seq.; and

WHEREAS, the Redevelopment Agency is concurrently considering an amendment to the Redevelopment Plan for the Downtown Hayward Redevelopment Plan; and

WHEREAS, Health and Safety Code section 33345 requires a redevelopment agency to make a proposal for adoption of owner participation rules available for public inspection prior to adoption of a redevelopment plan or amendment to such plan; and

WHEREAS, Health and Safety Code section 33339.5 provides that a redevelopment agency shall make available for public inspection before the adoption of a redevelopment project or project amendment, rules for extension of reasonable preferences to persons engaged in business in the project area as to reentry into a business within the redeveloped area if the business owner meets the requirements prescribed by the redevelopment plan; and

WHEREAS, the staff of Redevelopment Agency of the City of Hayward has been presented with a proposal for amended rules regarding owner participation rules and preferences to businesses for reentry into the redevelopment project area, and has considered such proposal at a public meeting held on October 6, 1998;

NOW, THEREFORE, THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD DOES HEREBY adopt the attached *Rules Governing Participation by Property Owners and the Extension of Reasonable Preferences to Business Occupants in the Downtown Hayward Redevelopment Project*, which are incorporated herein, and repeal *the Rules for Business Tenant Preferences and Rules for Owner Participation* for the Downtown Hayward Redevelopment Project adopted by Resolution No. RA-75-08; and

BE IT FURTHER RESOLVED that the Executive Director is hereby directed to transmit said' *Rules Governing Participation by Property Owners and the Extension of Reasonable Preferences to Business Occupants in the Downtown Hayward Redevelopment Project* to the Hayward City Council for its review prior to its hearing on the adoption of the proposed amendments to the Redevelopment Plan for the Downtown Hayward Redevelopment Project.,

HAYWARD, CALIFORNIA _____, 1998

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
Secretary of the Redevelopment Agency
of the City of Hayward

APPROVED AS TO FORM:

General Counsel